Wildlife Management



Introduction

Wildlife resources have always been central to the cultures of the treaty Indian tribes in western Washington. Elk, deer, waterfowl and other wildlife have long provided a source of food and clothing for Indian people.

As with salmon and shellfish, the tribes reserved the right to harvest wildlife in treaties with the U.S. government:

"The right of taking fish at all usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of

curing, together with the privilege of hunting and gathering roots and berries on open an unclaimed lands..."

- Treaty of Point Elliott, 1855

Little has changed over the centuries. The ancient link between the tribes and wildlife remains strong. Wildlife still provides important nutrition to Indian families on reservations where unemployment can run as high as 80 percent. As traditional foods, deer, elk and other wildlife remain important elements of feasts for funerals, naming ceremonies and potlatches. Hides, hooves, antlers, feathers and other wildlife parts are still used for traditional ceremonial items and regalia.

Unfortunately, the quality and quantity of the habitat upon which the wildlife resources in western Washington depend for their survival are declining rapidly. Where virgin forests once stood there is now urban sprawl. Deer and elk herds have been squeezed into smaller and smaller areas of degraded and fragmented habitat.

Concurrently, the ability of tribes to exercise their treaty-reserved right to hunt on open and unclaimed lands has also been dramatically impacted. Tribal members have been forced to hunt farther and farther from home to harvest their treaty-reserved share of wildlife resources.



A cow elk from the Mount St. Helens herd, equipped with a radio collar for tracking, surveys her new home in the North Cascades.

Overlaid on this background has been a series of legal skirmishes as well as state and federal court rulings, most of them favorable to the tribes, addressing tribal treaty hunting rights.

The treaty Indian tribes in western Washington, as responsible co-managers of the wildlife resource, work cooperatively with the State of Washington, citizen groups and others to manage the wildlife resources. However, the tribes face continual challenges to their treaty hunting rights.

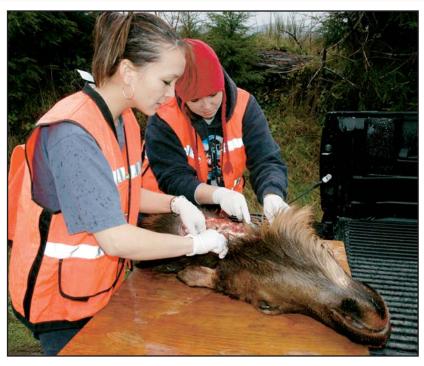
State and federal courts have consistently upheld the right of treaty tribes to hunt on open and unclaimed land free of state regulation. The courts have generally ruled that lands such as national forests, which have not been set aside for uses incompatible with hunting, are open and unclaimed. Further, the courts have ruled that in order to apply a state regulation to a tribal

member with a treaty hunting right, the state must prove that the regulation is both reasonable and necessary for conservation purposes.

In 1999 the U.S. Supreme Court upheld the tribal treaty right to hunt on state lands free of state regulation in *Minnesota v. Mille Lacs Band of Chippewa Indians*. The ruling stemmed from hunting, fishing and gathering rights reserved by the tribe in an 1837 treaty with the U.S. government.

The Washington State Supreme Court made a similar ruling in 1999 in *State v. Buchanan*. The case involved a member of a treaty tribe charged with harvesting two elk during a closed season at the state-owned Oak Creek Wildlife Area. Two lower courts ruled Buchanan was simply exercising his treaty-reserved right to hunt on open and unclaimed land when he harvested the two elk.

The state Supreme Court ruled that treaty tribes may hunt within original tribal lands and traditional areas and also ruled that the state-owned Oak Creek Wildlife Area was open and unclaimed land within the meaning



Quileute tribal wildlife technicians gather samples from an elk's brainstem to check for signs of chronic wasting disease.

of the treaties. The court also threw out the state's argument that the treaty hunting right was eliminated when Washington became a state. As in the Mille Lacs case, the court said that only the U.S. government may abrogate a treaty right.

While tribes prefer to cooperate with the State of Washington in the implementation of their treaty hunting rights and responsibilities as co-managers of the wildlife resources, they realize that they may be forced to seek a clarification of their treaty hunting rights through the federal courts.

Tribal Wildlife Management

The treaty Indian tribes in western Washington have a long history of co-managing natural resources with the State of Washington. The tribes and state have had numerous successes in implementing cooperative natural resource management efforts to protect, restore and enhance the productivity of natural resources in Washington. In a recent policy decision, the Washington Fish and Wildlife Commission recognized that "the preservation of healthy, robust and diverse fish and wildlife populations is largely dependent on the state and tribes working in a cooperative and collaborative manner."

It is important to understand that tribal hunters do not hunt for sport. Hunting is a spiritual and personal undertaking for each hunter. All tribes prohibit hunting for commercial purposes.

Western Washington treaty tribal hunters account for a very small portion of the total combined deer and elk harvest in the state. According to statistics for 2004-2005, tribal members harvested only 789 deer and elk – while non-Indians took almost 52,000, nearly fifty times as much.

Most tribal hunters do not hunt only for themselves. The culture of tribes in western Washington is based on extended family relationships. A tribal hunter usually shares his game with several families. In some cases, tribes may designate a hunter to harvest one or more animals for elders or families who cannot hunt for themselves.

As a sovereign government, each treaty tribe develops its own hunting regulations and ordinances governing tribal members. Each tribe also maintains an enforcement program to ensure compliance with tribal regulations. As responsible managers, tribes know the value of enforcement as a management tool. Tribes have limited hunting opportunity for tribal members when, because of budgetary constraints, they have lacked resources to adequately enforce their regulations. The ratio of tribal enforcement officers to treaty hunters is higher than the ratio of state enforcement officers to non-Indian hunters.

Like the State of Washington, tribes set seasons based on sound biological information about the ability of the resource to support harvest. Before opening any area to hunting, many tribes forward their regulations to WDFW for review and comment. Tribes also share their harvest data with the department.

Tribal hunters are licensed by their tribes and must obtain tags for each big game animal they wish to hunt. If a hunter is successful, he must tag the animal and submit a harvest report to the tribe. If a hunter is unsuccessful, he must report that result anyway, which yields valuable data for state and tribal wildlife managers. Tribal members are required to report all attempts at harvest. All tribal hunters carry photo identification cards with their name, date of birth, tribal affiliation and other information.

If a tribal member is found in violation of tribal regulations, he is cited into tribal court. Penalties can include fines and loss of hunting privileges. In most cases, tribal hunting regulations address the same harvest and safety concerns as state rules, such as prohibiting the carrying of loaded firearms in vehicles.

A number of tribes conduct hunter education courses, aimed especially at young tribal members, to ensure their hunters are safe when exercising their treaty right. Students are taught how to handle firearms, ethical considerations and the reasons behind tribal hunting regulations. Cultural aspects of hunting, as well as treaty hunting rights, also are covered in the classes.

Collectively, the tribes have created the Inter-tribal Wildlife Committee of the Northwest Indian Fisheries Commission (NWIFC) to provide a forum for addressing inter-tribal issues. The committee also provides a unified voice in discussions with state and federal wildlife managers.

Following is an example of the types of management projects conducted by tribes during FY 05:

Tribes, State Work To Enhance Nooksack Elk Herd

A cooperative effort between the Point Elliott Treaty tribes and the Washington Department of Fish and Wildlife (WDFW) to bolster a weak population of elk in the North Cascades resulted in the successful transfer of dozens more animals from the Mount St. Helens area this year. The elk were moved to help augment the flagging Nooksack elk herd, also known as the North Cascades elk herd.

"We are pleased with the results of this joint effort," said Todd Wilbur, Swinomish Tribe, who chairs the Intertribal Wildlife Committee of the NWIFC. "The tribes are committed to enhancing and protecting elk populations throughout western Washington. This project will dramatically improve the health of the North Cascades elk herd."

The effort also aided the larger Mount St. Helens elk herd that had outgrown its food supply.

The transfers are designed to jump start efforts to rebuild the North Cascades herd, where the number of elk has declined from 1,700 animals to 300 since 1984. Those efforts include a decade-old ban on hunting and projects to improve elk forage.

"We are monitoring all of the re-located elk and they are doing well in their new habitat," said Wilbur. "We are especially grateful for the help of community volunteers, such as the Mount St. Helens Preservation Society, for their assistance in the trapping effort."

The Point Elliott tribes have taken the lead in monitoring the elk moved to the North Cascades so far. Adult cow elk were fitted with radio-transmitting collars, which will allow biologists to track their movements and habitat uses. The Point Elliott treaty tribes, working in cooperation with the state comanagers and Rocky Mountain Elk Foundation volunteers, will use the collars to electronically monitor the movements of the transplanted elk. Point



Shawn Yanity, chair of the Stillaguamish Tribe, cradles the head of a cow elk while it is processed for transfer.

Elliott Treaty tribes include Lummi, Muckleshoot, Nooksack, Sauk-Suiattle, Stillaguamish, Suquamish, Swinomish, Tulalip and Upper Skagit.

The tribes will continue monitoring the collared animals at least once a week for the next several years.

Biologists believe a number of factors contributed to the decline in the North Cascades elk herd's population, including habitat changes and over-hunting. WDFW and the tribes have forbidden hunting in the herd's core area since 1993, and hunting seasons for the area will not be established until elk populations have reached a recovery goal.

"Elk and other wildlife have always been essential for the tribes," said Scott Schuyler, natural resources policy coordinator for the Upper Skagit Tribe. "Allowing elk populations to vanish is simply not an option for us."

"It's a tradition to set the table with venison, and it will continue to be part of our culture," said Harlan James, the Lummi Nation policy representative.